

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA,

Case No. 3:05-CR-00266-KI

Plaintiff,

ORDER

v.

YONNY YAIR MANRIQUE-EUAN,

Defendant.

S. Amanda Marshall
United States Attorney
District of Oregon
John C. Laing
Assistant United States Attorney
1000 SW Third Avenue, Suite 600
Portland, Oregon 97204

Attorneys for Plaintiff

Yonny Yair Manrique Euan
#68875-065
Federal Correctional Institution - Lompoc
3600 Guard Road
Lompoc, California 93436-2705

Pro Se Defendant

KING, Judge:

Defendant Yonny Yair Manrique-Euan seeks a reduction of his 120 month sentence of imprisonment I imposed on him for possession with intent to distribute cocaine, pursuant to 21 U.S.C. §§ 841(a)(1) and (b)(1)(A)(iii). Pending before me is Manrique-Euan's Motion to Modify Term of Imprisonment [46]. I deny the motion.

BACKGROUND

Manrique-Euan pled guilty, without the benefit of a plea agreement, to a one-count indictment charging him with knowingly and intentionally possessing with the intent to distribute fifty grams or more of a mixture and substance which contained cocaine base. Since the defendant did not qualify for the safety valve under 18 U.S.C. § 3553(f), I imposed the statutory mandatory minimum of 120 months' imprisonment.

DISCUSSION

Manrique-Euan relies on the 2007 Sentencing Commission's crack cocaine guideline amendments, contained in Amendment 706, which reduced by two levels the base offense level associated with each quantity of crack cocaine. See U.S.S.G. Supp. App. C, Amdt. 706 (made retroactive in 2008 by Amdt. 713). Manrique-Euan's sentence, however, remains unaffected by any guidelines change because the Court imposed the mandatory minimum sentence required by

statute. This includes both the 2007 amendment to the guidelines and the more recent 2010 amendment to the guidelines. See U.S.S.G. Supp. App. C, Amdt. 750 (made retroactive in 2011 by Amdt. 759).


I note, too, that the statutory amendment contained in the Fair Sentencing Act of August 2010, which increased the quantity of crack from 50 grams to 280 grams in order to trigger the 120 month mandatory minimum sentence, does not apply here either. The statutory change has been deemed inapplicable to defendants sentenced prior to the statute's effective date of August 3, 2010. United States v. Baptist, 646 F.3d 1225, 1229 (9th Cir. 2011) (per curiam).

CONCLUSION

For the reasons set forth above, I deny Manrique-Euan's Motion to Modify Term of Imprisonment [46].

IT IS SO ORDERED.

Dated this 16th day of February, 2012.



Garr M. King
United States District Judge